

### **REMARKS/ARGUMENTS**

Examiner rejects Claims 1-6, 8-16, 18-26, 28-36, 38-68, 70, 73-75, 77-84, and 88 under 35 U.S.C. §102(b) as being anticipated by European Patent No. EP0973112 to Goodwin III (“Goodwin”). In addition, Claims 7, 17, 27, 37, 47, 55, 69, and 85 are rejected under 35 U.S.C. §103(a) as being unpatentable over Goodwin in view of U.S. Patent No. 6,553,346 to Walker et al. (“Walker”). Finally, the Examiner rejects Claims 71, 72, 76, 85, 86, and 87 under 35 U.S.C. §103(a) as being unpatentable over Goodwin in view of Official Notice.

As explained more fully below, independent Claims 1, 11, 21, 31, 41, 49, 59, and 74 of the present application have been amended to more patentably distinguish the cited references. Dependent Claims 89 and 90 have been added. In light of the amendments and subsequent remarks, Applicants respectfully request reconsideration and allowance of the claims.

Goodwin discloses a system and method for managing competitive price information. More specifically, Goodwin relates to electronic price label (“EPL”) systems that are typically used to merchandise items on store shelves and attached along the leading edge of the shelves for display to consumers. Goodwin discloses a point-of-sale system including a price look-up (“PLU”) file containing identification and price information regarding an item. Competitive price information is gathered by visiting other transaction establishments and stored in a competitive price data file. Competitive pricing control software identifies an item and price of the item from the competitive price data file. The competitive pricing control software also reads the price of the item from the PLU data file and determines whether the PLU price should be adjusted for the item. If the PLU price is adjusted, the competitive pricing control software causes an updated price to be displayed on the EPL.

In contrast to Goodwin, independent Claims 1, 11, 21, 41, 49, 59, and 74 of the present application have been amended to recite that modifying at least one entry in the results to reflect a more competitive price or position when compared to another entry in the results is based at least partially on availability of the item at an otherwise less competitive price. For example, an airline may choose to change the availability of a fare class to produce a more competitive price. Moreover, independent Claim 31 has been amended to recite that a request is received from a potential customer and that price information is provided to the potential customer. Thus, a

customer initiates the request so that the customer may receive price information after the price for the item has been modified.

Therefore, Applicants submit that amended Claims 1, 11, 21, 31, 41, 49, 59, and 74 of the present application are distinguishable from Goodwin. In contrast, Goodwin discloses that competitive pricing software obtains price data for an item from a data file, reads the price from a PLU data file, and adjusts the PLU price if the current price is greater than the competitor prices. The PLU price may be adjusted on an item-by-item, a competitor-by-competitor, or a global basis. However, Goodwin does not teach or suggest that the PLU price is adjusted based on availability. Rather, Goodwin only discloses that a comparison of the value of the competitor price and PLU price is used to determine whether the PLU price is to be adjusted, which is unlike independent Claims 1, 11, 21, 41, 49, 59, and 74. In addition, there is also no teaching or suggestion within Goodwin to use availability to adjust the PLU price, as Goodwin only discloses modifying the PLU price based on competitors' prices.

Furthermore, Goodwin discloses that typically the system automatically applies the necessary price changes after collecting the competitive price information. Namely, Goodwin discloses that "[c]ompetitive pricing control software 28 reads PLU data file 44 and competitive price data file 34 and automatically changes prices and displays promotional messages as necessary." Goodwin, ¶ 0019. Thus, Goodwin does not disclose that a potential customer submits a request for an item, that a price for the requested item is determined, and that the price for the item is modified to reflect a more competitive price before the price information is provided to the potential customer, as recited by independent Claim 31. Goodwin simply modifies prices for EPL systems in a predetermined or automated manner for subsequent display to customers, which is unlike independent Claim 31 of the present application, where customers initiate the price modification. Thus, Goodwin discloses that customers viewing the PLU price have no knowledge that the price has been modified and have not initiated the price modification in any way.

As such, Applicants submit that independent Claims 1, 11, 21, 31, 41, 49, 59, and 74 are distinguishable from Goodwin and the remaining cited references, taken alone or in combination. Because each of the dependent claims include each of the limitations of a respective independent

claim, Applicants also submit that the dependent claims are allowable for at least those reasons discussed above.

Moreover, although the dependent claims are distinguishable from the cited references for at least those reasons discussed above in conjunction with independent Claims 1, 11, 21, 31, 41, 49, 59, and 74, Applicants submit that the dependent claims include additional recitations that further patentably distinguish the claimed invention. In particular, none of the cited references teach or suggest several dependent claims that relate to modification of at least one entry in the results. For example, Goodwin does not teach or suggest:

Claims 5, 15, 25, 35, 45, 53, 68, and 83, which recite that the database results are modified by combining a price and a non-monetary incentive;

Claims 6, 16, 26, 36, 46, 54, 69, and 84, which recite that the database results are modified by increasing the price, decreasing the price, and/or modifying the price based on a level of service provided;

Claims 8, 18, 28, and 38, which recite that the database results are modified by marking up the at least one entry while maintaining a competitive price;

Claims 60 and 75, which recite that modifying the at least one entry includes providing the at least one entry at cost to reflect a more competitive position;

Claims 62 and 77, which recite that modifying the at least one entry includes providing the more competitive position for the at least one entry in exchange for a non-monetary incentive;

Claims 63 and 78, which recite that modifying the at least one entry includes applying a set of supplier rules to the at least one entry to determine a price associated with the at least one entry;

Claims 64 and 79, which recite that applying the set of supplier rules includes increasing the price associated with the at least one entry to match at least one of the other entries in the results;

Claims 65 and 80, which recite that applying the set of supplier rules includes providing the more competitive position while maintaining a minimum price for the at least one entry;

Claims 66 and 81, which recite that applying the set of supplier rules includes providing the more competitive position while maintaining a premium value above at least one of the other entries in the results;

Claims 73 and 88, which recite that marking up the at least one entry above the supplier provided price includes marking up/increasing the supplier provided price to be one of equal and less than other entries in the results; and

Claims 7, 17, 27, 37, 47, 55, 70, and 85, which recite that the database results are modified by changing the availability of a class to produce the more competitive price.

The Examiner generally cites to Figures 4 and 5 and paragraphs 32, 39, and 45 of Goodwin as disclosing each of the aforementioned dependent claims. However, a closer reading of the cited paragraphs reveals that Goodwin simply discloses maintaining a PLU price at or below a competitor's price. Goodwin does not teach or suggest any of the aforementioned dependent claims that relate to providing a more competitive position using techniques other than simply lowering the price of the item. In addition, Goodwin discloses providing a promotional message, such as "compare and save," on the EPL, but the message in no way affects the price as the price has already been adjusted at this point (see Figures 4 and 5 of Goodwin). Thus, the promotional message displayed on the EPL is distinctly different than dependent Claims 5, 15, 25, 35, 45, 53, 68, and 83 of the present application. Moreover, regarding Claims 7, 17, 27, 37, 47, 55, 70, and 85, the Examiner relies on Walker as disclosing the modification of the availability of a fare class to produce the more competitive price. However, Walker nowhere discloses the modification of a fare class, and the particular portions of Walker relied upon by the Examiner relate to conditional purchase offers rather than the modification of a fare class.

Therefore, Applicants submit that dependent Claims 5, 6, 7, 8, 15-18, 25-28, 35-38, 45-47, 53-55, 60, 62-66, 68-70, 73, 75, 77-81, 83-85, and 88 are further distinct from the cited references taken individually or in combination.

Appl. No.: 09/961,419  
Amdt. dated September 21, 2006  
Reply to Office Action of May 25, 2006

### CONCLUSION

In view of the amendments and remarks presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Trent A. Kirk  
Registration No. 54,223

**Customer No. 00826**  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON September 22, 2006.